

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
CAMDEN VICINAGE

CHRISTOPHER BRYANT, :
Plaintiff, : Civ. Action No. 18-837 (RMB-KMW)
v. :
SALEM COUNTY BOARD OF :
CHOSEN FREEHOLDERS, *et al.*, :
Defendants. :
OPINION

APPEARANCES:

CONRAD J. BENEDETTO, Esq.
Law Offices of Conrad J. Benedetto
1233 Haddonfield-Berlin Road, Suite 1
Voorhees, NJ 08043
On behalf of Plaintiff

MICHAEL MORRIS MULLIGAN, Esq.
317 Shell Road
P.O. Box 432
Carney's Point, NJ 08069
On behalf of the Salem County Defendants

BUMB, United States District Judge

This matter comes before the Court upon the Salem County Defendants' ¹ motion to dismiss the complaint pursuant to Federal

¹ The Salem County Defendants include Salem County; Warden Raymond Skradzinski of the Salem County Correctional Facility, in his individual and official capacities; Corrections Officer Martin of the Salem County Correctional Facility, in his individual capacity; and John Doe Corrections Officers 1-10 of Salem County Correctional Facility, in their individual capacities. (Compl., ECF No. 1, ¶¶11-13.) Defendant CFG Health Systems, LLC filed an Answer to the Complaint. (Answer, ECF No. 11.)

Rule of Civil Procedure 12(b)(6), for failure to state a claim. ("Salem County Defs' Mot. to Dismiss", ECF No. 5.) Plaintiff filed a brief in opposition to the motion to dismiss on March 21, 2018. ("Pl's Brief in Opp. to the Salem County Defs' Mot. to Dismiss", ECF No. 9.)

On May 22, 2018, the Honorable Karen M. Williams, United States Magistrate Judge, granted Plaintiff's motion to file an amended complaint, directing that Plaintiff shall serve the amended complaint in accordance with the Federal Rules of Civil Procedure. (Order, ECF No. 22.) Plaintiff filed an Amended Complaint on May 28, 2018. (Am Compl., ECF No. 23.) According to the docket in this matter, the Amended Complaint has not been served on Defendants.

"Where a Plaintiff has filed an amended complaint in response to a pending motion to dismiss, 'a trial court has discretion to deny the [pending] motion as moot (thereby effectively requiring a new motion) or to consider the merits of the motion as applied to the amended complaint.'" Wilson v. Somerset County Prosecutor's Office, Civ. Action No. 15-6034(FLW), 2016 WL 1090811, at *4 (D.N.J. Mar. 21, 2016) (quoting Rule 15 Amended and Supplemental Pleadings, 1 Federal Rules of Civil Procedure, Rules and Commentary Rule 15). If the Salem County Defendants choose to bring a motion to dismiss the Amended Complaint under Federal Rule of Civil Procedure 12(b)(6) in lieu of an answer, they may wish to raise

new issues, if appropriate. Therefore, the Court will dismiss the Salem County Defendants' pending motion to dismiss the original complaint as moot.

An appropriate Order follows.

s/Renée Marie Bumb
RENÉE MARIE BUMB
United States District Judge

Dated: August 15, 2018